

# Rules and Regulations of The Henrylyn Irrigation District

Pursuant to the Irrigation District Law of 1921, as Amended, the Board of Directors of the Henrylyn Irrigation District Have Duly Adopted the Following Rules and Regulations

## Sections of Rules and Regulations

### Section 1 - Apportionment and Distribution

The Water shall be apportioned to the irrigable acres of the District, and so far, as possible, distributed on a basis of equality as to burdens imposed and benefits conferred.

### Section 2 - Storage and Direct Runs

It shall be the purpose of the Board, after the close of each irrigation season, first to fill all the reservoirs to their then safe storage capacity, but whenever possible without endangering such reservoir filling, water shall be run from the river and distributed pro rata among such District landowners as desire to participate in the use thereof.

### Section 2.1 - Direct Water Pro-rate

1. Upon notice that the District may be diverting any water under its direct flow decrees or free river conditions and which direct water may then be subject to apportionment and allocation among all District's landowners or water users; the Manager of the District shall assess and determine the probable daily demand for delivery of such direct water.
2. Upon assessment and determination of the demand for direct water, and after consideration of the available space in the laterals or delivery ditches required to deliver such water, the Manager of the District shall establish, in his sole discretion, a "direct water pro- rate" expressed as a percentage of each District landowner's or water user's current taxable acreage.
3. Delivery of direct water should be allocated and divided among the individual water users within a particular delivery ditch or lateral (i.e., Box Elder, or D-H Canal, or Jim

#1 & #2, or Keene, or Lowline, or 1053, or Prospect & Prospect Sub.) based upon that percentage the total number of acres owned by an individual landowner under said delivery ditch or lateral bears to the total number of acres requesting direct delivery under said ditch or lateral.

4. The direct water prorate shall be used by the District to allocate, apportion, and deliver that amount of direct water to which an individual District landowner or water user may be entitled for delivery to any individual head gate, but in no event, shall any District landowner or water user be entitled to a greater delivery of direct flow water than the amount which can be safely and accurately delivered through the existing head gate for any such parcel.
5. The allocation or apportionment of a direct water pro-rate shall not guarantee or entitle any landowner or water user of the District to the delivery of any specific amount of direct water during any period of direct water run or any particular water season.
6. The Manager of the District shall have complete discretion, and sole authority, to determine all future allocations or pro-rates of direct water, and to determine which particular delivery ditch or lateral shall receive the same, based upon the current, and expected, amount of direct water to be available to the District, but subject to policies established by the Board of Directors and applicable law. At all times hereafter, the Manager of the District retains full authority to increase, reduce, suspend, reallocate among structures, delivery ditches, laterals or divisions, or withdraw such direct water pro-rate, without the requirement of any advance notice to any individual District landowner or water user of the District, and without any liability of the District or the Manager of the District to any individual District landowner or water user.
7. In the event the Manager of the District determines that any structure, delivery ditch, lateral or division of the District is unable to fairly and accurately divide the direct water prorate amongst all the individual landowners or water users making demand therefore; then in that event the Manager of the District shall have full authority to rotate, alternate delivery schedules or make advance delivery of any such direct water.
8. The District shall provide that its books and records timely and accurately record any direct water allocation or pro-rate as subsequently determined by the Manager of the District, including all deliveries of direct water to any landowner or water user pursuant to such allocation or pro-rate.
9. District landowners or water users requesting direct water delivery on parcels whose taxable acreage, when multiplied by the direct water pro-rate percentage, is less than the District's minimum delivery rate may accumulate their individual direct water pro-rate on the books of the District during that period such direct flow run continues, until a sufficient direct water pro-rate is accrued, thus allowing delivery at the minimum rate. Upon delivery of an accumulated direct water pro-rate and provided a direct run is still in progress; then and in that event accrual of the direct water pro-rate shall re-commence.
10. Those District landowners or water users of any parcels that are of insufficient size to receive delivery of their direct water prorate, who are in the process of accumulating a sufficient direct water prorate to meet the minimum delivery rate, but who have not received any direct water delivery by the time any future direct run ceases, shall be allowed to retain, accumulate and carry over any unused direct water prorate toward the

minimum delivery requirement in the next direct run during the then current water season.

11. The failure of any landowner or water user to make request for, or receive delivery of, any direct water pro-rate to which he may be entitled, or the refusal or inability of the District to make delivery of such direct water at a time and location requested by any landowner or water user of the District, shall not result in any claim or liability for the make-up or replacement of such direct water delivery.
12. In the event the Manager of the District determines any available direct water may otherwise go to waste or be unused by the landowners or water users entitled thereto, the Manager of the District shall have full authority to deliver such water for the beneficial use of any landowner or water user of the District, notwithstanding any previous direct water pro-rate to such landowner or water user.

## **Section 3 - Apportionment of Stored Water**

Whenever in the judgment of the Board the District reservoirs are filled to their then safe storage capacity, or all the water obtainable shall have been stored, the Board shall apportion such stored water to all the District lands, and thereafter throughout the irrigation season then pending, such stored water shall be delivered pro rata to the District acres; provided, upon any change of the conditions pertinent to the available supply the Board may, from time to time, make such re-apportionment of the stored water as may be rendered necessary because of losses from the quantity on storage or increases thereto from flows afterward obtained, so that after such apportionment, such stored water and any additional direct water obtained during such irrigation season shall be delivered pro rata unto all District acres entitled thereto.

## **Section 4 - Fall Deliveries**

If after the apportioned water shall be delivered, further runs are obtainable they shall be distributed during the fall of the same season pro rata, (on the same basis as before the apportionment) to such extent as the Board shall deem safe and feasible, in view of the necessity of refilling the reservoirs for the following irrigation season.

## **Section 5 - Water Runs**

The water shall be run and distributed at such times and in such quantities as shall be best adapted to occasion the least loss in transit and accomplish the greatest good to the greatest number of landowners.

Timely notice of the dates, quantities and duration of runs shall be given landowners, their agents or the water user under their lands as long prior thereto as may be feasible under the circumstances of each case, but co-operation between the Board and Landowner or water user must be had to insure the best results.

## **Section 6 - Water Taxes to be Paid Before Water Delivery**

No water shall be delivered by the district to, or for, any lands within said District upon which there are delinquent or past due, assessments for maintenance and operation or bonds and interest of said District, and the General Manager, his Foreman, and all Ditch-riders of the Henrylyn Irrigation District are hereby instructed and directed not to deliver water to, or for, any lands in said District until all past due and delinquent assessments levied for maintenance and operation or bonds and interest of said District have been paid or redeemed.

## **Section 6.1 - Inclusion & Exclusion Petition Publication Costs**

The district shall assess and collect two-hundred-fifty dollars (\$250.00) for each parcel sought to be Included in the district and two-hundred-fifty dollars (\$250.00) for each parcel sought to be excluded from the district. Petitions for Exclusion which will result in a net reduction of acreage in the district shall be published free of charge as such petitions benefit the remaining landowners in the district. said publication fees shall be payable at the time said petition(s) are submitted and prior to the Board's authorization to publish notice thereof.

## **Section 7 - Transfers**

Any owner of District land, upon application to and with the consent of the Board, may transfer and assign the whole or any part of the storage water apportioned to his district land for that year, to any other bona fide owner of District land for use that year; provided, all District maintenance taxes due upon the land from which and to which such transfer is made are paid in full, and all such transfers shall be made under the following conditions:

1. No transfer will be permitted except in writing on a form signed by both parties describing the land, user number, and headgate number from which, and to which, the transfer is made, stating the amount of such transfer and describing the laterals thru which it is to be run.

2. No transferred water shall be flowed thru any ditch or lateral in such quantity, time and manner as to interfere with the first and prior right of landowners to delivery unto their lands of their apportioned water.
3. Each transfer shall be determined upon the facts and circumstances of each particular case and the Board reserves the right to refuse to allow any transfer which in its judgment will in any manner injure the District or any of its landowners and water users.
4. Individual landowners within the Henrylyn Irrigation District may engage in private transactions regarding the transfer, location of delivery and beneficial use of District acre-rights provided the Board of Directors determines that:
  - a) no expansion of the historical use of said acre rights occurs;
  - b) no change in the type of use of said acre-rights occurs;
  - c) Said acre-rights can be delivered by the District without increased cost or reduction in allocation to other landowners or water users;
  - d) The proposed location of delivery or use does not violate any term of the District's Water Right Decrees; and
  - e) Any such agreement provides for annual notice to, and approval of its terms, by the District's Board of Directors.
5. All transfers of waters to lands from one Division of the District to another Division shall be limited to that amount of a respective landowner's or water user's acre-rights as may be approved and determined by the Manager, in his discretion or as directed by the Board of Directors, to not cause injury to any other Landowner in the District.

## **Section 7.1 - Requests for Changes of Type of Use, Location or Time of Delivery**

Any District landowner desiring to change the place or time of delivery of any irrigation water to which he or she may be entitled as a District landowner, or desiring to change the type of use of any irrigation water to which he or she may be entitled as a District landowner, shall first make a written request describing any such desired change(s), and including all terms and conditions proposed for such change(s), to the District's board of directors. If, in the opinion of the District's board of directors, such change(s) may be made without injury to the District, its structures or water rights and the remaining landowners in the District, and upon such approval by the Water Court of such change(s) as may then be necessary under applicable law, then such District landowner's "acre-rights" shall thereafter be delivered to such place(s), at such time(s), or for such type(s) of use as requested.

Unless having first obtained the written consent and approval of the District's board of directors, any District landowner filing any such request, or seeking any judicial or administrative approval, to change, alter or amend the type, location, or time of use of any of the District's water rights, or his or her pro-rata "acre-rights", shall immediately thereupon become legally obligated to reimburse the District for any and all reasonable costs and expenses incurred by the District for any and all attorneys, engineers and consultants retained by the

District to analyze, review, advise and respond to such filing or request in any and all subsequent legal or administrative proceedings.

## **Section 8 - Record of Apportionment and Deliveries**

The Secretary shall keep records whereby any landowner or water user may at any time during irrigation season, ascertain the amount of water apportioned to his land, the amount remaining to be delivered to him, and all landowners or water users are required to keep themselves informed as to these and all water conditions.

## **Section 9 - Waste**

No waste of water shall be permitted, either thru faulty laterals, overflow, over application, running water to lands outside the District, or otherwise, and in all cases where any such waste is caused or permitted by any landowner or water user, the water which would otherwise be distributed thereto will be shut off and kept off until the evil shall be corrected.

## **Section 10 - Excess Water**

All excess water delivered into any district or private lateral or upon the land of any District landowner or water user shall be flowed in such a manner as not to damage the lands or crops of any owner of adjacent lands, and whenever possible such excess shall be discharged from such lateral or lands into some ditch, stream, depression or arroyo so as to flow back into some District ditch or reservoir for the use and benefit of District lands and none other; and in all cases where any such excess water is permitted to flow otherwise than as herein prescribed or to or for lands not part of the District the water delivered to the lateral or land from which such excess flows or wastes will be cut down to the extent of such waste or wrongful use until such evil is corrected.

## **Section 11 - Laterals**

All lateral ditches must be kept clean and free from weeds and other obstructions by the landowner or water user using the same and in all cases where any lateral is permitted to become clogged by weeds or other obstructions or from any cause to allow any overflow of its banks or excessive seepage or escapement of water thru them, the excess of loss occasioned by any such condition will be construed as waste, and the flow of water thereto will be either

entirely or partially shut off until such evil is corrected by the person or persons maintaining such faulty lateral.

## **Section 12 - Headgates and Structures**

All headgates, flumes, and structures demanded by any District landowner on any private lateral will be designed and installed by the District at the expense of the person or persons demanding the same and these shall be installed at such point and of such character as will best improve the District service.

### **Section 12.1 - Crossing Permits**

1. All applications for the crossing over, through or under any structures owned or operated by the District shall be submitted to the District's Manager in writing with proposed crossing structure plans that sufficiently show the location, description, design and construction specifications of any such requested proposed crossing structure.
2. Upon an applicant's submission of proposed crossing application and proposed crossing structure plans, the District's Manager shall review the same with the applicant to assure that the minimum requirements of such crossing are met, and that the applicant understands the required terms and conditions of such crossing. Thereafter the proposed crossing shall be presented to and considered by the Board of Directors of the District at its next regular Board meeting.
3. Proposed crossing applications and proposed crossing structure plans shall provide at a minimum that
  - a) the crossing will not impair, impede or reduce the anticipated flow amount or storage capacity in the District's structure;
  - b) the crossing will not interfere in any way with historical operation and maintenance of the District's structure;
  - c) the crossing will not create any increased risk of failure of the District's structure; and
  - d) the crossing will be constructed, maintained and operated without any cost or expense to the District.
4. Crossing permit applications and proposed plans may only be approved by action of the Board of Directors of the District and shall be subject to the applicant's acceptance and execution of the District's standard Right of Way Easements and Licenses Agreement.
5. Crossing permit applications and proposed plans approved by the District shall require the Applicant's payment of a crossing permit fee as approved by the Board of Directors and established in the District's adopted Design Review Criteria. If the proposed crossing is for multiple towers associated with one center pivot sprinkler system, then the crossing permit fees shall be assessed as if the multiple towers were one single crossing.
6. The District reserves the right to assess increased crossing permit fees over and above the amount established in the District's adopted Design Review Criteria, if:

- a. the crossing application and proposed plans are complex, or incomplete;
- b. the crossing application, and proposed plans, impact more than one structure of the District;
- c. the services of a licensed professional engineer are used to review the proposed crossing structure plans;
- d. an increased fee will assure the applicant's performance of minimum requirements for construction of the proposed crossing structure; or
- e. an increased fee will assure construction, completion, and operation of the proposed crossing structure in accordance with the District's standard Right of Way Easements and Licenses Agreement.

7. A penalty shall be assessed against any applicant whom enters upon the District's property without the authority of the District's Manager or commences construction of any crossing structure without the Board of Directors approval in an amount equal to not less than double the crossing permit fee established in the District's adopted Design Review Criteria or a greater amount if so, determined by action the Board of Directors of the District.

## Section 13 - Measurements, Distribution, Etc.

- 1. The Measurement units will be the cubic second foot and acre foot.
- 2. The measurements will be made at the individual measuring weirs of the landowner or water user.
- 3. Demands for delivery of water shall be made by any landowner or water user requesting a change in the delivery of irrigation water making all reasonable efforts to contact the responsible Ditch Rider before 1:00 p.m. of the day prior to such requested delivery change. If the landowner or water user is unsuccessful in his or her attempts, then the District's office staff shall accept such request but only if received before 1:00 p.m. of the day prior to such requested delivery change. All water orders received after 1:00 p.m. shall only be effectuated the second day after the request is received. After the water is delivered to the landowner or water user it shall be used continually both night and day, during the period of irrigation. Delivery begins when the water is diverted thru the user's measuring weir and continues until it is shut off by the ditch Rider. The ditch Rider shall be notified no later than 1:00 p.m. the day in advance of the day the user desires the water shut off.
- 4. The District will not deliver nor attempt to deliver water to any user who does not own, control or have a carriage right in a lateral, ditch or conduit connected with the District's system, and will not deliver water to a user's lateral in excess of the safe carrying capacity of such lateral.
- 5. Except for Subdivided Lands as provided for in section 13.1 below, the liability of the district shall cease at the point of delivery of the water thru the individual measuring weir of the user, but the Board retains supervisory control over the distribution to prevent wrongful or excessive use or waste or use on land outside the district and otherwise to enforce these Rules and Regulations.

6. The district does not guarantee the delivery of water, to lands which are higher in elevation than the bottom of the Ditch, nor will checks be placed in the District's ditches for such purpose.
7. All fences should be placed not less than three feet from the outer toe of the canal embankment. All fences crossing canals and distributing laterals must be kept outside the water carrying section. Gates shall be provided to permit the ditch Rider's entry and exit.
8. Complaints of water users shall be taken up first with the ditch Rider of the lateral, and if no relief is afforded, then with the Superintendent. In case of further complaint, it shall be taken direct to the office of the District, by written statement, and in not more than three days after the act complained of has occurred.

## Section 13.1 - Subdivided Lands

1. As used herein:
  - a. "Subject Property" shall mean that real property which may be subdivided into individual legal parcels and which is currently included within the District;
  - b. "Divided Parcels" shall mean any and all individual legal parcels lawfully created from within the Subject Property at any time. Each new parcel created within the Subject Property shall constitute a parcel to be included within the District;
  - c. "Farm Owner" shall mean the lawful owner of the Subject Property and/or the Divided Parcel; and
  - d. "District Rules and Regulations" shall mean all District Rules and Regulations as currently adopted or as may be amended in the future.
2. If Farm Owner intends to supply water to the Subject Property exclusively through a municipal system or a source other than the District, then the Farm Owner shall seek to exclude such Subject Property from the District in accordance with irrigation district law and the District Rules and Regulations.
3. Any District obligation to deliver irrigation water to the Subject Property or Divided Parcels shall cease at the existing headgate (the "Common Headgate") and will be limited to one head of water as historically delivered to the Subject Property. In no way shall the District be liable for the control, delivery, distribution, and management of each or any portion of the Divided Parcels' respective pro-rata "acre-right" allocation of irrigation water after said irrigation water has been delivered by the District to the Common Headgate. The District shall in no way be responsible for the construction, operation, maintenance, or repair of the new or existing laterals, structures, and water transmission facilities of any kind beyond the Common Headgate used solely to deliver water to the Subject Property and/or Divided Parcels ("Delivery Facilities").
4. The Subject Property and the Divided Parcels shall be subject to all District Rules and Regulations and all applicable laws.
5. The Farm Owner and the owners of the Divided Parcels shall:
  - a. Indemnify and hold harmless the District and its directors, managers, officers, employees, contractors, representatives, guests, and invitees in an amount not less than the governmental liability limits then in effect for any and all claims,

actions, or suits, or related damages resulting from the operations, maintenance, construction, or repairs of the District's infrastructure, including but not limited to the Common Headgate;

- b. Be solely responsible for the control, delivery, distribution, and management of all water upon the Subject Property subsequent to the District's delivery of the same to the Common Headgate; and
- c. Be solely responsible for any and all costs including, but not limited to, the construction, maintenance, operation, repair, or replacement of any Delivery Facilities on the Subject Property or the Divided Parcels.

6. The Board of Directors shall have the power and authority to take such further action as it shall determine necessary to implement, enforce, and administer this, Rule.

## **Section 14 -Meetings and Elections**

The Henrylyn Irrigation District (the district) shall hold its regular meetings on the first Thursday of each month at 3:00 p.m. in the district office. Meeting schedules and locations are subject to change upon at least five days' notice on the District website. Unless otherwise directed by the board of directors, to encourage landowner participation, general and special elections shall be conducted by mail with ballots distributed no less than 30 days prior to the election.

## **Section 15 - Amendments**

These rules may be amended as occasion may require establishing and maintaining such a method of maintenance and operation of the District works as shall seem best calculated to secure to all the district lands the highest possible service at the least possible expense.

## **Section 16 - Distribution of Rules**

These rules and all amendments hereof shall be printed or typed in convenient form and copies thereof distributed to all owners of district lands.

**Adopted, as amended, by the Board of Directors this fourth day of June 2020.**